

Serial No.: 10/031,844
Group Art Unit No.: 1614

REMARKS

Claims 1,2 and 11-18 are pending in this application and these claims are subject to a restriction requirement. Applicants' response to the Examiner's restriction requirement is as follows.

I. Restriction Requirement under 35 U.S.C. §121 and 372

The Examiner has required a restriction of the claims to one of the following categories:

Group I, claims 1-2 and 11-18, drawn to compound of formula I wherein Z^1 , Z^2 , Z^3 , Z^4 are CR^{1a} and Z^5 is nitrogen, namely bicyclopymidine, composition and method of use.

Group II, claims 1-2 and 11-18, drawn to compound of formula I wherein Z^1 , Z^2 , Z^3 , and Z^5 are CR^{1a} and Z^4 is nitrogen, namely bicyclopymidine, composition and method of use.

Group III, claims 1-2, and 11-18, drawn to compound of formula I wherein one of Z^1 , Z^2 , Z^3 is nitrogen and the other along with Z^4 and Z^5 are CR^{1a} , namely isomeric bicyclo bipyridine, composition and method of use.

The Examiner states the above grouping is proper because the inventions do not relate to a single general inventive concept under PCT 13.1 and 13.2 because they lack the same or corresponding special technical features. Applicants respectfully traverse the restriction requirement.

Applicants submit that the compounds disclosed in the instant application do share a substantial structural feature that is essential to the utility. All of the compounds share a bicyclic, nitrogen containing, aromatic ring linked to a piperidine ring. The bicyclic aromatic ring and piperidine ring are essential to the utility of the compounds as antibacterial agents. Also, since the claimed invention arose from a singular research effort, the compounds, methods of treatment, and process claims should be considered as

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parts of a single application. Therefore, Applicants respectfully request that the Examiner withdraw the restriction requirement.

Solely in order to expedite prosecution, Applicants provisionally elect to prosecute, with traverse, Group III, claims 1-2, and 11-18, drawn to compound of formula I wherein one of Z¹, Z², Z³ is nitrogen and the other along with Z⁴ and Z⁵ are CR^{1a}, namely isomeric bicyclo bipyridine, composition and method of use.

Applicants traverse the restriction requirement on the ground that the inventions of the claims as grouped by the Examiner are not independent, but Applicants do not traverse this requirement on the ground that these inventions are not patentably distinct. Applicants are not aware of any evidence that the claims are obvious variants of each other and specifically deny that the inventions of any groups of claims are obvious variant of the inventions of any other groups of claims.

II. Conclusion

This reply is intended to further this case to allowance by addressing each ground of objection and rejection in the Examiner's Office Action. Reconsideration of this application is requested. Should the Examiner have any questions regarding this application, the Examiner is invited to call the undersigned agent at the number given below.

Respectfully submitted,



Laura K. Madden
Agent for Applicant
Registration No. 48,352

GLAXOSMITHKLINE
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939
Phone (610) 270-7339
Facsimile (610) 270-5090
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